individual is then given the badge to allow access. Another security officer collects the badges upon exit from the protected area. The badges are then placed in a badge rack located at the badge issue station and stored at the entrance station until the individual again needs access into the protected area.

The licensee proposes to implement an alternative unescorted access control system which would eliminate the need to issue and retrieve badges at the entrance/exit location, and would allow all individuals with unescorted access to keep their badges with them when departing the site. An exemption from 10 CFR 73.55(d)(5) is required to allow contractors to take their badges offsite instead of returning them when exiting the site.

Environmental Impacts of the Proposed Action

The staff has completed its evaluation of the licensee's application. Under the proposed system, individuals who are authorized for unescorted entry into the protected area would have the physical characteristics of their hand (hand geometry) registered with their badge number in the access control system. When an individual presents his badge to the card reader and places their hand on the measuring surface, the system compares the hand geometry to that registered for the badge number to verify authorization for entry. This system provides a positive means of assuring that a stolen or lost badge could not be used to gain access. Individuals, including licensee employees and personnel not employed by the licensee (e.g., contractors), would be allowed to keep their badge with them when they depart the site. This would reduce the need for security personnel to issue and retrieve badges at the access point. The access process will continue to be under the observation of security personnel located within a hardened cubicle who have final control over release of the entrance station turnstiles.

Based on Sandia Report, SAND91–0276 UC–906 (unlimited release), printed June 1991, ''A Performance Evaluation of Biometric Identification Devices,'' and on the licensee's experience with the current photo identification system, the licensee has demonstrated that the proposed hand geometry will maintain the same high level of assurance that access will be granted to the protected area to only authorized individuals. Since both the badge and hand geometry are necessary for access into the protected area, the proposed system provides a positive verification process. Potential loss of a badge by an individual that takes a badge offsite would not enable unauthorized entry into the protected area. Badges will continue to be displayed by all individuals while inside the protected area. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the action would be to deny the request. Such action would not change any current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for WNP–2.

Agencies and Persons Consulted

In accordance with its stated policy, on June 19, 1995, the staff consulted with the Washington State official, Mr. R.R. Cowley of the Department of Health, State of Washington Energy Facility Site Evaluation Council, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 1, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 3rd day of July 1995.

For the Nuclear Regulatory Commission.

Eileen M. McKenna,

Acting Director, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

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BILLING CODE 7590–01–M

[Docket No. 99900271]

Rosemount Nuclear Instruments, Inc.; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation (NRR), has taken action with regard to a Petition for action under Part 21 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 21) received from Paul M. Blanch. The Petitioner requested that (1) Rosemount Nuclear Instruments, Incorporated (Rosemount) immediately inform all users of safety-related transmitters in accordance with the requirements of 10 CFR Part 21 of the shelf-life limitations of its pressure transmitter sensor cell fill-oil and that its pressure transmitter sensor cell fill-oil may crystallize if the transmitters are ever exposed to temperatures of less than 70 degrees Fahrenheit, and provide all available information to each licensee for evaluation as it applies to each licensed facility; (2) the U.S. Nuclear Regulatory Commission (NRC) take ''prompt and vigorous'' enforcement action against Rosemount for knowingly and consciously failing to provide notification as required by 10 CFR Part 21 of the shelf-life limitations of the fill-oil and its potential to crystallize, and that a ''separate violation must be issued'' for each defect and each day of failure to provide the required notice; and (3) the NRC consider escalated enforcement action due to the repetitive nature of the alleged violations.

The Director of NRR has denied this Petition. The reasons for the Director's actions are set forth in the ''Director's Decision under 10 CFR 2.206'' (DD–95–13), which is available for public inspection in the Commission's Public Document Room, Gelman Building, 2120 L Street, N.W., Washington, D.C. 20037. A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by that regulation, the decision will constitute the final action of the Commission 25 days after the date of issuance of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 5th day of July 1995.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

In the matter of Rosemount Nuclear Instruments, Incorporated, Eden Prairie, Minnesota, Docket No. 99900271 (10 CFR § 2.206), July 5, 1995.

I. Introduction

On November 21, 1994, Mr. Paul M. Blanch (the Petitioner) filed a Petition with the Executive Director for Operations, pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR § 2.206), in which he requested that (1) Rosemount Nuclear Instruments, Incorporated (Rosemount), immediately inform all users of safety-related transmitters in accordance with the requirements of 10 CFR Part 21 of the shelf-life limitations of its pressure transmitter sensor cell fill-oil, and that its pressure transmitter sensor cell fill-oil may crystallize if the transmitters are ever exposed to temperatures of less than 70 degrees Fahrenheit (°F), and provide all available information to each licensee for evaluation as it applies to each licensed facility; (2) the U.S. Nuclear Regulatory Commission (NRC) take ''prompt and vigorous'' enforcement action against Rosemount for knowingly and consciously failing to provide notification as required by 10 CFR Part 21 of the shelf-life limitations of the fill-oil and its potential to crystallize, and that a ''separate violation must be issued'' for each defect and each day of failure to provide the required notice; and (3) the NRC consider escalated enforcement action due to the repetitive nature of the alleged violations.

The Petitioner's letter has been referred to me pursuant to 10 CFR § 2.206 of the Commission's regulations. By letter dated December 22, 1994, I acknowledged receipt of the Petition. As described in that letter, the Petitioner's request that Rosemount ''immediately'' inform all users of safety-related transmitters of the shelf-life limitations of the fill-oil and the potential for crystallization was denied. With regard to the Petitioner's request that the NRC take ''prompt and vigorous'' enforcement action and consider escalated enforcement action against Rosemount for its alleged reporting failures, I informed the Petitioner that the staff was evaluating this matter and would take appropriate enforcement action after completion of its evaluation, should it be warranted.

II. Discussion

As set forth in 10 CFR § 21.1, the regulations in Part 21 establish procedures and requirements for implementation of Section 206 of the Energy Reorganization Act of 1974, which requires notification to the Commission of any basic component supplied to a licensed facility that has defects which could create a substantial safety hazard. Under 10 CFR § 21.21(a), each entity subject to the regulations in Part 21 must evaluate ''deviations'' and ''failures to comply'' in order to identify a defect or failure to comply that could create a substantial safety hazard, were it to remain uncorrected.[1] In accordance with 10 CFR § 21.21(b), if the deviation is discovered by the supplier and the supplier determines that it does not have the capability to perform the evaluation to determine if a defect exists, then the supplier must inform the purchasers or affected licensees within five working days so that the purchaser or licensee may evaluate the deviation.

The Petitioner asserts that Rosemount became aware of a defect that may have created substantial safety hazard and failed to report this defect to the affected licensees within five working days for evaluation. The Petitioner also asserts that neither the NRC nor Rosemount possess the technical areas of expertise to conduct this evaluation, and that the ultimate responsiblity for evaluation is with the licensees.

A. Shelf-Life Limitations

The Petitioner's first request was that Rosemount must immediately inform all users of its safety-related transmitters of the shelf-life limitations of its pressure transmitter sensor cell fill-oil and that the pressure transmitter sensor cell fill-oil may crystallize if the transmitters are ever exposed to temperatures of less than 70° F. The Petitioner further requested that Rosemount must provide all available information to each licensee for evaluation as it applies to each licensed facility.

The shelf life issue was first identified and discussed in NRC Inspection Report No. 99900271/93–01 which documented the results of an inspection conducted on February 1 through 4, and March 8 through 12, 1993 of the Rosemount Eden Prairie, Minnesota facility. The NRC inspection team review of the viscosity test date recorded on a container of Dow Corning (DC) 704 silicone oil used for Rosemount safety-related transmitter Models 1153 and 1154 sensor cells, located in the nuclear production sensor cell oil fill area, indicated that the contents were beyond the manufacturer's certified shelf life. The team noted that, upon receipt of this material, Rosemount Receipt Inspection verified its viscosity value and wrote that value and the date of test on the outside of each container. The applicable Dow Corning product specification data sheet stated, ''when stored in the original, sealed container, at or below 77 degrees F, DC 704 oil has a shelf life of 12 months from the date of shipment, although no inherent limitations on the useful life of this product are known to exist.'' The team discussed this issue with Rosemount engineers, who stated that, as a result of product liability concerns, Dow Corning, in 1992, changed the certified shelf life of the oil listed on their product data sheet from ''indefinite'' to 12 months. Rosemount, however, still considered the shelf life to be indefinite and issued an engineering change notice in September 1992 to modify its procurement drawings to reflect this position. A letter dated April 14, 1992, from Dow Corning to Rosemount stated, in part, that ''Dow Corning certifies that DC 704 will meet the sales specification requirements for 12 months from date of shipment when properly stored in the original unopened container . . . . Because the sensor is completely sealed and free from contaminates and air it shouldn't change chemically over a long period of time.'' Another letter from Dow Corning to Rosemount, dated August 31, 1992, regarding the usable life of DC 704 stated that no inherent limitations on useful life of the product are known to exist and that it is the responsibility of Rosemount to test and evaluate Dow Corning products in their specific applications to determine compatibility. During the February and March 1993 inspection, the NRC inspectors observed that Rosemount had established a test and evaluation program which encompassed its sensor cell application in the safety-related transmitters. The inspectors observed that Rosemount has been performing functional testing of its transmitters

[1] 10 CFR § 21.3 defines a *deviation* as a departure from the technical requirements included in a procurement document. A *defect* is defined, in part, as a deviation in a basic component delivered to a purchaser for use in a facility or an activity subject to the regulations in Part 21 if, on the basis of an evaluation, the deviation could create a substantial safety hazard; the installation, use or operation of a basic component containing a defect; or a condition or circumstance involving a basic component that could contribute to the exceeding of a safety limit. A *failure to comply* is defined as an activity or basic component that fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to a substantial safety hazard * * * (See 10 CFR § 21.21(a)(3)(i).)

which includes testing at pressure and within the operational limits. Based upon the inspectors' observations and their review of Rosemount correspondence with Dow Corning, the NRC concludes that the shelf life of the oil does not constitute a safety issue.

The Petitioner filed an earlier Petition on March 28, 1994, in which he requested that the NRC inform all users of Rosemount 1150-series pressure transmitters and series 510 and 710 DU trip devices of ''significant safety problems identified in NRC Inspection Report 99900271/93–01.'' By letter dated May 2, 1994, the Petitioner repeated this request. I responded to this request by letter dated June 3, 1994. In my response, I summarized some of the above discussion and stated that the staff did not consider the shelf life of the DC 704 fill oil to be significant.[2]

The Commission's regulations in 10 CFR Part 21 require that notification be provided of any basic component supplied to a licensed facility that contains defects which could create a substantial safety hazard. However, the staff determined that Rosemount was not required to notify the NRC nor to inform its customers under the provisions of 10 CFR Part 21 because a defect or deviation as defined in 10 CFR § 21.3 was not identified.

B. Sensor-Cell Fill-Oil Crystallization

An NRC staff concern regarding potential crystallization of DC 704 silicone oil that is used in Rosemount Models 1153 and 1154 safety-related transmitters' sensor-cells was formally transmitted to Rosemount by an NRC letter dated June 2, 1994. That letter identified the staff's concern regarding an apparent disparity between the fill oil manufacturer's precautionary note on temperature limitations and the Rosemount product data sheet. The June 2, 1994, letter also noted that Rosemount believed it had adequately addressed the concern in tests conducted in 1980, but that it was pursuing the matter further with the fill oil manufacturer. Rosemount's letter of September 28, 1994, provided an analysis and response to these concerns. Rosemount's analysis concluded that preconditioning of the fill oil during the transmitter manufacturing process, coupled with initial and periodic testing of the transmitters in service at plants, provide adequate assurance that proper transmitter performance is maintained. The analysis also noted that Rosemount was aware of the fill oil's potential for crystallization and addressed its concerns in a 1980 report which concluded that crystallization was not a concern as long as certain conditions were met. These conditions are assured by Rosemount's manufacturing processes and its transmitter's specified range of operation. Rosemount informed the staff in a September 1994 submittal that it found no evidence of fill oil crystallization at licensee facilities. In addition, an NRC staff review of industry data did not identify any instances of Rosemount Model 1153 or 1154 transmitter sensor-cell oil crystallization. The NRC staff conducted an inspection at the Rosemount facility in January 1995 (Inspection report 99900271/95–01), specifically to review the crystallization issue. Based on the team's review of the Rosemount procedures, manufacturing process and personal interviews with the Rosemount manufacturing and engineering staff, the NRC staff concluded that Rosemount's actions in 1980 regarding the DC 704 cautionary note adequately addressed its 10 CFR Part 21 responsibilities and the validity of its engineering basis for its Model 1153 and 1154 low temperature designed application. Additionally, the team determined that, although not required by 10 CFR Part 21, Rosemount had provided its customers a summary of its engineering analysis in a letter of December 1, 1994, and that Rosemount had appropriately implemented its applicable manufacturing process controls. The team also concluded that Rosemount's conditioning of the DC 704 oil before its use should remove any existing seeds which could cause crystallization. Based on a review of the information provided by Dow Corning, observations of Rosemount testing, and industry historical data that indicates no instances of crystallization, the staff concludes that the concern regarding crystallization of DC 704 oil is adequately addressed by the transmitter manufacturing process and performance testing by the licensees.

In summary, the staff found that Rosemount identified, evaluated and took appropriate actions regarding the manufacturer's cautionary note concerning the transmitter fill-oil temperature limitations in 1980. Since Rosemount's manufacturing and testing processes are sufficient to assure a low probability of crystallization of the fill oil, the staff has determined that Dow Corning's cautionary note regarding crystallization did not constitute a deviation from the Rosemount product data sheet. Therefore, Rosemount was not required to inform its customers of the issue under the provisions of 10 CFR Part 21.

The aspect of the Petitioner's request regarding shelf life limitations and crystallization of the fill oil is denied. The self-life issue was evaluated by the staff and, as discussed in my December 22, 1994, letter to the Petitioner, found not to be a significant safety issue. As discussed in the NRC's December 9, 1994, letter to Rosemount and NRC Inspection Report No. 99900271/95–01, the crystallization issue was determined by NRC staff to have been adequately addressed by Rosemount in regard to its engineering and 10 CFR Part 21 responsibilities. Rosemount was not required under Part 21 to inform affected purchasers of these conditions, therefore, no violation of 10 CFR Part 21 was identified. Since the remainder of the Petitioner's request relates to enforcement action which is predicated on a violation of NRC regulations, the remainder of the Petitioner's request is also denied.

III. Conclusion

As explained above, following its review of the Petitioner's request and supporting argument, the NRC staff concludes that Rosemount did not violate 10 CFR Part 21 with respect to the issues raised in this Petition. Accordingly, the Petition is hereby denied.

A copy of this Decision will be filed with the Secretary of the Commission for the Commission to review as provided in 10 CFR § 2.206(c). The Decision will become the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes a review of the Decision in that time.

Dated at Rockville, Maryland, this 5th day of July 1995.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

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BILLING CODE 7590–01–M

[2] A Director's Decision responding to the other issues raised in the Petitioner's December 31, 1992, and March 28, 1994, Petitions (DD–94–12) was issued on December 15, 1994. 40 NRC 370.

[Docket No. 50–272]

Public Service Electric and Gas Co., (Salem Nuclear Generating Station, Unit 1; Exemption)

I

The Public Service Electric and Gas Company (the licensee) is the holder of Facility Operating License No. DPR–70, which authorizes operation of the Salem Nuclear Generating Station, Unit 1 (the facility). The license provides, among